

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JEFFERY PAYNE, #193531,

Petitioner,

v.

CASE NO. 14-CV-14903
HONORABLE GEORGE CARAM STEEH

THOMAS WINN,

Respondent.

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**OPINION AND ORDER GRANTING THE PETITIONER'S MOTION
FOR NON-PREJUDICIAL DISMISSAL, DISMISSING WITHOUT
PREJUDICE THE PETITION FOR A WRIT OF HABEAS CORPUS,
AND DENYING A CERTIFICATE OF APPEALABILITY**

This matter is before the Court on the petitioner's motion to voluntarily dismiss his pending petition for a writ of habeas corpus so that he may return to the state courts to pursue further challenges to his state criminal proceedings. The Court previously denied the petitioner's motion to stay the proceedings and hold this case in abeyance. Given that the petitioner seeks to exhaust additional issues in the state courts and given that he has sufficient time to do so within the one-year statute of limitations applicable to federal habeas actions, dismissal of the present petition is appropriate.

Accordingly, the Court **GRANTS** the petitioner's motion for non-prejudicial dismissal and **DISMISSES WITHOUT PREJUDICE** the petition for a writ of habeas corpus. Additionally, the Court **DENIES** a certificate of appealability as reasonable jurists could not debate the correctness of the Court's procedural ruling. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b); Slack v. McDaniel, 529 U.S. 473, 484-85 (2000). This case is closed.

Should the petitioner wish to seek federal habeas relief following the exhaustion of state court remedies, he must file a new habeas petition in federal court within the time remaining on the one-year period of limitations.

IT IS SO ORDERED.

Dated: September 24, 2015

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on September 24, 2015, by electronic and/or ordinary mail and also on Jeffery Payne #193531, Saginaw Correctional Facility, 9625 Pierce Road, Freeland, MI 4862.

s/Barbara Radke
Deputy Clerk